

STATE OF KANSAS
STATE CORPORATION COMMISSION

Notice of Public Hearing on Proposed Administrative Regulation
K.A.R. 82-4-3a

April 16, 2015

The State Corporation Commission (Commission) will conduct a public hearing at 10:00 a.m. on Tuesday, June 16, 2015, in the First Floor Hearing Room at the office of the State Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas, to consider the adoption of the proposed rule and regulation of the State Corporation Commission of the State of Kansas on a permanent basis.

This notice replaces our previous notice which incorrectly scheduled the public hearing for June 10, 2015. This notice also exceeds the 60-day notice requirement of the pending public hearing and shall constitute the beginning of the public comment period for the purpose of receiving written public comments on the proposed rule and regulation. A complete copy of the proposed regulation and economic impact statement may be found on the Kansas Corporation Commission website: <http://kcc.ks.gov>, or by contacting Michael Duenes: m.duenes@kcc.ks.gov.

All interested parties may submit written comments prior to the hearing to Michael Duenes, Litigation Counsel, State Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas 66604, or by email to: m.duenes@kcc.ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulation during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to ask that each participant limit any oral presentation to five (5) minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five (5) working days in advance of the hearing by contacting Danelle Harsin at (785) 271-3161 or the Kansas Relay Center at 1-800-766-3777. The main entrance located on the southwest side of the building is handicapped accessible. Handicapped parking is located on the southwest side of the State Corporation Commission's parking lot.

A summary of the proposed regulation and its economic impact are as follows: (Note: Statements indicating that a regulation is "not anticipated to have any economic impact" are intended to indicate that no economic impact on the State Corporation Commission, other state agencies, state employees, or the general public has been identified.)

K.A.R. 82-4-3a. Hours of service.

This existing regulation adopts relevant portions of the Federal Motor Carrier Safety Administration ("FMCSA") regulations (49 C.F.R. Part 395) which establish the hours of service requirements to be followed by motor carriers and their employees. The proposed amendments to

this regulation are aimed at bringing Kansas in line with previously enacted federal regulations on the 34-hour restart rule, as well as incorporating edits to reflect minor grammatical and form corrections, recent updates to other FMCSA regulations, deletions of provisions applicable only to Alaska and exemptions for certain intrastate tow truck operations from these hours of service requirements.

Prior to December 11, 2014, 49 C.F.R. 395.3 required motor carrier drivers to restart any period of seven (7) or eight (8) consecutive work days by taking an off-duty period of 34 or more consecutive hours, including two periods of 1 a.m. to 5 a.m. On December 11, 2014, Congress did away with the 1 a.m. to 5 a.m. requirement. However, K.A.R. 82-4-3a currently retains the 1 a.m. to 5 a.m. requirement for the restart rule. Thus, interstate motor carriers need not comply with the 1 a.m. to 5 a.m. requirement, while intrastate motor carriers are still under the rule. Thus, the Commission's proposed amendment would cause K.A.R. 82-4-3a to mirror the federal rule.

K.A.R. 82-4-3a: Economic Impact Summary

The Transportation Division of the Commission anticipates a slight economic benefit to motor carriers that rely on the 34-hour restart rule because motor carrier drivers will now be able to restart their weekly hours with less delay. The Transportation Division is unable to put a specific dollar figure on this benefit.

KANSAS CORPORATION COMMISSION
SUMMARY STATEMENT
K.A.R. 82-4-3a

K.A.R. 82-4-3a provides rules and regulations pertaining to hours of service requirements for motor carriers. The regulation adopts by reference 49 C.F.R. Part 395, and thus, covers the scope of the rules, definitions, maximum driving time for property-carrying vehicles (permissible hours of work shifts, rest breaks, and re-start rules), maximum driving time for passenger-carrying vehicles (permissible on-duty and off-duty hours), requirements for drivers' record of duty status, driver out-of-service standards, and automatic on-board recording devices.

**KANSAS CORPORATION COMMISSION
ECONOMIC IMPACT STATEMENT
K.A.R. 82-4-3a**

I. Summary of Proposed Regulation, including Its Purpose.

This existing regulation adopts relevant portions of the Federal Motor Carrier Safety Administration (“FMCSA”) regulations (49 C.F.R. Part 395) which establish the hours of service requirements for commercial motor vehicle drivers. The proposed amendments to this regulation include edits to reflect minor grammar and form corrections and recent updates to FMCSA regulations. The amendments to this regulation are proposed on both a temporary and permanent basis.

II. Reason or Reasons the Proposed Regulation is Required, including whether or not the Regulation is Mandated by Federal Law and whether or not the Regulation Exceeds the Requirements of Applicable Federal Law

In addition to minor grammatical and form updates, the proposed amendments to this regulation adopt the current federal 34-hour restart rule found in 49 C.F.R. 395.3. The proposed amendments do not exceed the requirements of applicable federal law.

III. Environmental Benefit Statement.

The Transportation Division of the Commission does not anticipate a direct environmental benefit on the industry, agency, other governmental agencies, or the general public.

IV. Anticipated Economic Impact.

The Transportation Division of the Commission anticipates a slight economic benefit to motor carriers that rely on the 34-hour restart rule because motor carrier drivers will now be able to restart their weekly hours with less delay. The Transportation Division of the Commission is unable to put a specific dollar figure on this benefit. Although Kansas is permitted to retain more stringent regulations than the federal regulations when it comes to intrastate motor carrier operations, for the sake of consistency, the Commission is adopting the federal rule. This will create ease of application by motor carriers and ease of enforcement by the Kansas Highway Patrol.

V. Description of Less Costly Methods Considered Addressing this Issue.

The proposed amendments do not create any cost to motor carriers or other state agencies, and thus, there are no less costly methods to be considered.

VI. Report on Public Hearing and Comments on Proposed Administrative Regulations.

This section will be updated after the regulations have been presented to the Joint Committee on Administrative Rules and Regulations, and at the scheduled public hearing.

82-4-3a. Hours of service. (a) With the following exceptions, 49 C.F.R. Part 395, as in effect on ~~December 27, 2011~~ October 1, 2013, is hereby adopted by reference:

- (1) The following revisions shall be made to 49 C.F.R. 395.1:
 - (A) 49 C.F.R. 395.1(a)(2) shall be deleted.
 - (B) The following revisions shall be made to paragraph (b):
 - (i) The phrase “Except as provided in paragraph (h)(2) of this section,” shall be deleted.
 - (ii) The phrase “§ 395.2” shall be deleted and replaced by “49 C.F.R. 395.2 as adopted by K.A.R. 82-4-3a.”
 - (iii) The phrase “~~§§~~ 395.3(a) or § 395.5(a)” shall be deleted and replaced by “49 C.F.R. 395.3(a) as adopted by K.A.R. 82-4-3a or 49 C.F.R. 395.5(a) as adopted by K.A.R. 82-4-3a” in both instances.
 - (C) In paragraph (c), the phrase “§ 395.3(b)” shall be deleted and replaced by “49 C.F.R. 395.3(b) as adopted by K.A.R. 82-4-3a.”
 - (D) The following revisions shall be made to paragraph (d)(2):
 - (i) The phrase “§§ 395.8 and 395.15” shall be deleted and replaced with “49 C.F.R. 395.8 and 395.15 as adopted by K.A.R. 82-4-3a.”
 - (ii) The phrase “§ 395.3(a)(2)” shall be deleted and replaced with “49 C.F.R. 395.3(a)(2) as adopted by K.A.R. 82-4-3a.”
 - (iii) The phrase “§ 395.1(e)(1)” shall be deleted and replaced with “49 C.F.R. 395.1(e)(1) as adopted by K.A.R. 82-4-3a.”

(E) The following revisions shall be made to paragraph (e):

(i) In paragraph (e)(1), the phrase “§ 395.8” shall be deleted and replaced by “49 C.F.R. 395.8 as adopted by K.A.R. 82-4-3a.”

(ii) In paragraph (e)(1)(iv)(A), the phrase “§ 395.3(a)(3)” shall be deleted and replaced with “49 C.F.R. 395.3(a)(3) as adopted by K.A.R. 82-4-3a.”

(iii) In paragraph (e)(1)(v)(D), the phrase “§ 395.8(j)(2)” shall be deleted and replaced by “49 C.F.R. 395.8(j)(2) as adopted by K.A.R. 82-4-3a.”

(iv) In paragraph (e)(2), the phrase “§ 395.3(a)(2) and § 395.8” shall be deleted and replaced with “49 C.F.R. 395.3(a)(2) as adopted by K.A.R. 82-4-3a and 49 C.F.R. 395.8 as adopted by K.A.R. 82-4-3a,” and the phrase “§ 395.1(e)(1), (g) and (o)” shall be deleted and replaced by “49 C.F.R. 395.1(e)(1), (g) and (o) as adopted by K.A.R. 82-4-3a.”

(v) In paragraph (e)(2)(i), the phrase “part 383 of this subchapter” shall be deleted and replaced with “the Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,125 et seq. and amendments thereto.”

(vi) In paragraph ~~(e)(2)(v)(D)~~ (e)(1)(v)(D), the phrase “§ 395.8(j)(2)” shall be deleted and replaced with “49 C.F.R. 395.8(j)(2) as adopted by K.A.R. 82-4-3a.”

(vii) In paragraph ~~(e)(2)(ix)(D)~~ (e)(2)(v)(D), the phrase “§ 395.8(j)(2)” shall be deleted and replaced with “49 C.F.R. 395.8(j)(2) as adopted by K.A.R. 82-4-3a.”

(F) In paragraph (f), the phrase “§ 395.3 (a) and (b)” shall be deleted and replaced by “49 C.F.R. 395.3 (a) and (b) as adopted by K.A.R. 82-4-3a.”

(G) The following revisions shall be made to paragraph (g):

(i) In paragraph (1)(i), the phrase “§§ 395.2 and 393.76 of this subchapter” shall be deleted and replaced with “49 C.F.R. 395.2 as adopted by K.A.R. 82-4-3a and 49 C.F.R. 393.76 as adopted by K.A.R. 82-4-3i.”

(ii) In paragraph (1)(i)(B), the phrase “§ 395.3(a)(3)(i)” shall be deleted and replaced with “49 C.F.R. 395.3(a)(3)(i) as adopted by K.A.R. 82-4-3a.” The phrase “, or, in the case of drivers in Alaska, the driving limit specified in § 395.1(h)(1)(i)-(ii),” shall be deleted.

(iii) In paragraph (1)(i)(C), the phrase “§ 395.3(a)(2)” shall be deleted and replaced with “49 C.F.R. 395.3(a)(2) as adopted by K.A.R. 82-4-3a.” The phrase “, or in the case of drivers in Alaska, the period specified in § 395.1(h)(1)(ii),” shall be deleted.

(iv) In paragraph (1)(i)(D), the phrase “§ 395.3(a)(2)” shall be deleted and replaced with “49 C.F.R. 395.3(a)(2) as adopted by K.A.R. 82-4-3a.”

(v) In paragraph (1)(ii)(C), the phrase “§ 395.3(a)(2)” shall be deleted and replaced with “49 C.F.R. 395.3(a)(2) as adopted by K.A.R. 82-4-3a.” The phrase “--or, for calculation of the 20-hour period in § 395.1(h)(1)(ii) for drivers in Alaska, all on-duty time--” shall be deleted.

(vi) In paragraph (2), the phrase “§§ 395.2 and 393.76 of this subchapter” shall be deleted and replaced with “49 C.F.R. 395.2 as adopted by K.A.R. 82-4-3a and 49 C.F.R. 393.76 as adopted by K.A.R. 82-4-3i.”

(vii) In paragraph (2)(ii), the phrase “§ 395.3(a)(3)” shall be deleted and replaced with “49 C.F.R. 395.3(a)(3) as adopted by K.A.R. 82-4-3a.”

(viii) In paragraph (2)(iii)(B), the phrase “paragraph (g)(2)(iii)(A) of this section” shall

be deleted and replaced with “49 C.F.R. 395.1(g)(2)(iii)(A) as adopted by K.A.R. 82-4-3a.”

(ix) In paragraph (2)(iv), the phrase “§ 395.3” shall be deleted and replaced with “49 C.F.R. 395.3 as adopted by K.A.R. 82-4-3a.”

(x) In paragraph (3), the phrase “§§ 395.2 and 393.76 of this subchapter” shall be deleted and replaced with “49 C.F.R. 395.2 as adopted by K.A.R. 82-4-3a and 49 C.F.R. 393.76 as adopted by K.A.R. 82-4-3i.”

(xi) In paragraph (3)(iv), the phrase “§ 395.5” shall be deleted and replaced with “49 C.F.R. 395.5 as adopted by K.A.R. 82-4-3a.”

(H) 49 C.F.R. 395.1(h) shall be deleted.

(I) 49 C.F.R. 395.1(i) shall be deleted.

(J) 49 C.F.R. 395.1(k) shall be deleted and replaced by the following:

“(k)(1) The provisions of this regulation shall not apply to any of the following, during planting and harvesting seasons, as defined in this regulation:

“(A) Drivers transporting agricultural commodities from the source of the agricultural commodities to a location within a 150-air-mile radius from the source;

“(B) drivers transporting farm supplies from a wholesale or retail distribution point to a farm or other location where the farm supplies are intended to be used within a 150-air-mile radius from the distribution point; or

“(C) drivers transporting farm supplies from a wholesale distribution point to a retail distribution point within a 150-air-mile radius from the wholesale distribution point.

“(2) ‘Planting and harvesting seasons’ means the time periods for planting, growing,

and harvesting that occur between January 1 and December 31.”

(K) In paragraph (n), the phrase “§ 395.2” shall be deleted and replaced with “49 C.F.R. 395.2 as adopted by K.A.R. 82-4-3a.”

(L) In paragraph (o), the phrase “§ 395.3(a)(2)” shall be deleted and replaced with “49 C.F.R. 395.3(a)(2) as adopted by K.A.R. 82-4-3a.”

(M) In paragraph (o)(3), the phrase “§ 395.3(c)” shall be deleted and replaced with “49 C.F.R. 395.3(c) as adopted by K.A.R. 82-4-3a.”

(N) In paragraph (p), the phrase “§ 395.3(a)” shall be deleted and replaced with “49 C.F.R. 395.3(a) as adopted by K.A.R. 82-4-3a.”

(O) In paragraph (p)(3), the phrase “§ 395.3(a), and paragraphs (p)(1) and (2) of this section” shall be deleted and replaced with “49 C.F.R. 395.3(a) as adopted by K.A.R. 82-4-3a, and 49 C.F.R. 395.3(p)(1) and (2) as adopted by K.A.R. 82-4-3a.”

(P) ~~49 C.F.R. 395.1(q) shall be deleted.~~ The following revisions shall be made to paragraph (q):

(i) The phrase “49 CFR 397.5” shall be deleted and replaced with “49 C.F.R. 397.5 as adopted by K.A.R. 82-4-3k.”

(ii) The phrase “395.3(a)(3)(ii)” shall be deleted and replaced with “49 C.F.R. 395.3(a)(3)(ii) as adopted by K.A.R. 82-4-3a.”

(Q) In paragraph (r), the phrase “§ 395.2” shall be deleted and replaced with “49 C.F.R. 395.2 as adopted by K.A.R. 82-4-3a.”

(2) The following revisions shall be made to 49 C.F.R. 395.2:

(A) The definition of “agricultural commodity” shall be deleted and replaced by the following: “‘Agricultural commodity’ means the unprocessed products of agriculture, horticulture, and cultivation of the soil, including but not limited to wheat, corn, hay, milo, sorghum, sunflowers, soybeans, and livestock. Agricultural commodities shall not include honey, poultry products, and timber products.”

(B) The definition of “~~electronic~~ automatic on-board recording device” shall be deleted.

(C) The definition of “farm supplies for agricultural purposes” shall be deleted and replaced by the following: “‘Farm supplies’ means supplies or equipment for use in the planting, growing, or harvesting of agricultural commodities and livestock feed.”

(D) In paragraph (4)(i) of the definition of “on duty time,” the phrase “§ 397.5 of this subchapter” shall be deleted and replaced with “49 C.F.R. 397.5 as adopted by K.A.R. 82-4-3k.”

(E) In paragraph (7) of the definition of “on duty time,” the phrase “part 382 of this subchapter” shall be deleted and replaced with “49 C.F.R. Part 382 as adopted by K.A.R. 82-4-3c.”

~~(E)~~ (F) The definition of “signal employee” shall be deleted and replaced with the following: “‘Signal employee’ means an individual who is engaged in installing, repairing or maintaining signal systems.”

~~(F)~~ (G) The definition of “sleeper berth” shall be deleted and replaced by the following: “‘Sleeper berth’ means a berth conforming to the requirements of 49 C.F.R. 393.76, as adopted in K.A.R. 82-4-3i.”

~~(G)~~ (H) The phrase “found by the Secretary to be hazardous under 49 U.S.C. 5103 in a quantity requiring placarding under regulations issued to carry out such section,” which appears in the definition of “transportation of construction materials and equipment,” shall be deleted and replaced by “requiring placarding pursuant to 49 C.F.R. Part 172, as adopted in K.A.R. 82-4-20.”

(3) ~~In 49 C.F.R. 395.3(a), the phrase “§ 395.1” shall be deleted and replaced with “49 C.F.R. 395.1 as adopted by K.A.R. 82-4-3a.”~~ The following revisions shall be made to 49 C.F.R. 395.3:

(i) In paragraph (a), the phrase “§ 395.1” shall be deleted and replaced with “49 C.F.R. 395.1 as adopted by K.A.R. 82-4-3a.”

(ii) Paragraph (c)(1) shall be deleted and replaced with the following: “Any period of 7 consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours.”

(iii) Paragraph (c)(2) shall be deleted and replaced with the following: “Any period of 8 consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours.”

(iv) Paragraph (d) shall be deleted.

(4) In the first sentence of 49 C.F.R. 395.5, the phrase “§ 395.1” shall be deleted and replaced with “49 C.F.R. 395.1 as adopted by K.A.R. 82-4-3a.”

(5) The following revisions shall be made to 49 C.F.R. 395.8:

(A) In paragraph (a), the phrase “paragraph (a)(1) or (2) of this section” shall be deleted and replaced with “49 C.F.R. 395.8(a)(1) or (2) as adopted by K.A.R. 82-4-3a.”

(B) 49 C.F.R. 395.8(a)(1) shall be deleted and replaced by the following: “Every driver who operates a commercial motor vehicle shall record his/her duty status, in duplicate, for each 24-hour period. The duty status time shall be recorded on a specified grid, as shown in 49 C.F.R. 395.8(g) as adopted by K.A.R. 82-4-3a. The grid and the requirements of 49 C.F.R. 395.8(d) as adopted by K.A.R. 82-4-3a may be combined with any company forms.”

(C) 49 C.F.R. 395.8(a)(2) shall be deleted and replaced by the following: “Every driver operating a commercial motor vehicle equipped with an automatic on-board recording device meeting the requirements of 49 C.F.R. 395.15 as adopted by K.A.R. 82-4-3a must record his or her duty status using the device installed in the vehicle. The requirements of 49 C.F.R. 395.8 as adopted by K.A.R. 82-4-3a shall not apply, except for 49 C.F.R. 395.8(e) as adopted by K.A.R. 82-4-3a and 49 C.F.R. 395.8(k)(1) and (2) as adopted by K.A.R. 82-4-3a.”

(D) ~~The “Note” that appears between 49 C.F.R. 395.8(c) and (d) shall be deleted.~~

~~(E)~~ In paragraph (e), the phrase ~~“either this section, § 395.15 or § 395.16,”~~ “of this section or § 395.15” shall be deleted and replaced with “49 C.F.R. 395.8 as adopted by K.A.R. 82-4-3a or 49 C.F.R. 395.15 as adopted by K.A.R. 82-4-3a.”

~~(F)~~ (E) In paragraph (g), the phrase “paragraph (d) of this section” shall be deleted and replaced with “49 C.F.R. 395.8(d) as adopted by K.A.R. 82-4-3a.”

~~(G)~~ (F) The following revisions shall be made to paragraph (h):

(i) In paragraph (h)(2), the phrase “§ 395.2” shall be deleted and replaced with “49 C.F.R. 395.2 as adopted by K.A.R. 82-4-3a.”

(ii) In paragraph (h)(3), the phrase “§ 395.2” shall be deleted and replaced with “49

C.F.R. 395.2 as adopted by K.A.R. 82-4-3a.”

(iii) In paragraph (h)(4), the phrase “§ 395.2” shall be deleted and replaced with “49 C.F.R. 395.2 as adopted by K.A.R. 82-4-3a.”

~~(H) The “Note” that appears between 49 C.F.R. 395.8(h)(5) and (i) shall be deleted.~~

~~(I) The “Note,” including the graphic, that appears after 49 C.F.R. 395.8(k)(2) shall be deleted.~~

~~(6) 49 C.F.R. 395.11 shall be deleted.~~

~~(7)~~ The following revisions shall be made to 49 C.F.R. 395.13:

(A) The following revisions shall be made to paragraph (a):

(i) The phrase “every special agent of the Federal Motor Carrier Safety Administration (as defined in appendix B to this subchapter)” shall be deleted and replaced by “any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who is certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

(ii) The phrase “paragraph (b) of this section” shall be deleted and replaced by “49 C.F.R. 395.13(b) as adopted by K.A.R. 82-4-3a.”

~~(B) The following revisions shall be made to paragraph (b):~~

~~(i)~~ In paragraph (b)(2), the phrase “§ 395.8 or § 395.15 of this part” shall be deleted and replaced by “49 C.F.R. 395.8 as adopted by K.A.R. 82-4-3a or 49 C.F.R. 395.15 as adopted by K.A.R. 82-4-3a.”

~~(ii) In paragraph (b)(4), the phrase “§ 385.811(d) of this chapter” shall be deleted and~~

~~replaced by “49 C.F.R. 385.811(d) as adopted by K.A.R. 82-4-3d.”~~

(C) 49 C.F.R. 395.13(c)(2) shall be deleted and replaced by the following: “Within fifteen days following the date any driver is placed out of service, the motor carrier that employed the driver shall personally deliver or place in the U.S. mail to the state director of transportation and to the federal motor carrier safety administration a signed certification in a form acceptable to the commission. Any signed certification acceptable to the commission shall include the following information:

“(i) All violations have been corrected;

“(ii) action has been taken to ~~assure~~ ensure compliance with 49 C.F.R. 395.1, 49 C.F.R. 395.2, 49 C.F.R. 395.3, 49 C.F.R. 395.5, 49 C.F.R. 395.8, 49 C.F.R. 395.13, and 49 C.F.R. 395.15, each as adopted by K.A.R. 82-4-3a; and

“(iii) the motor carrier understands that false certification can result in appropriate enforcement action.”

(D) 49 C.F.R. 395.13(d)(4) shall be deleted and replaced with the following: “49 C.F.R. 395.13 as adopted by K.A.R. 82-4-3a does not alter the hazardous materials requirements prescribed in 49 C.F.R. 397.5 as adopted by K.A.R. 82-4-3k pertaining to attendance and surveillance of commercial motor vehicles.”

~~(8)~~(7) The following revisions shall be made to 49 C.F.R. 395.15:

(A) ~~In paragraph (a), the phrase “part 395” shall be deleted and replaced with “49 C.F.R. Part 395 as adopted by K.A.R. 82-4-3a.”~~

~~(B)~~ In the first sentence of paragraph (a)(1), the phrase “§ 395.8 of this part” shall be

deleted and replaced with “49 C.F.R. 395.8 as adopted by K.A.R. 82-4-3a.” ~~The phrase “this section or § 395.16” shall be deleted and replaced with “49 C.F.R. 395.15 as adopted by K.A.R. 82-4-3a.”~~

~~(C)~~ (B) In paragraph (b)(3), the phrase “§ 395.8(d) of this part” shall be deleted and replaced with “49 C.F.R. 395.8(d) as adopted by K.A.R. 82-4-3a.” The last sentence in 49 C.F.R. 395.15(b)(3) shall be deleted.

~~(D)~~ (C) In paragraph (i)(4), the term “FMCSA” shall be deleted and replaced by “commission.”

~~(E)~~ (D) In paragraph (j), the phrase “§ 395.8 of this part” shall be deleted and replaced with “49 C.F.R. 395.8 as adopted by K.A.R. 82-4-3a.”

~~(F)~~ (E) In paragraph (j)(2)(ii), the phrase “of this part” shall be deleted and replaced with “of 49 C.F.R. Part 395 as adopted by K.A.R. 82-4-3a.”

(F) In paragraphs (j)(1) and (j)(2), the term “FMCSA” shall be deleted and replaced by “commission.”

~~(9) — 49 C.F.R. 395.16 through 395.18 shall be deleted.~~

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted.

(c) No wrecker or tow truck, as defined by K.S.A. 66-1329 and amendments thereto, with a gross vehicle weight rating or gross combination vehicle weight rating of 26,000 pounds

or less that is operating in intrastate commerce and is not either carrying 16 or more passengers, including the driver, or transporting materials required to be placarded shall be subject to this regulation. (Authorized by and implementing K.S.A. ~~2012~~ 2014 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. ~~2012~~ 2014 Supp. 66-1,129, ~~as amended by L. 2013, ch. 14, sec. 3;~~ effective, T-82-12-16-03, Jan. 4, 2004; effective, T-82-4-27-04, May 3, 2004; effective, T-82-8-23-04, Aug. 31, 2004; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended, T-82-10-25-05, Nov. 1, 2005; amended Feb. 17, 2006; amended, T-82-3-21-06, March 21, 2006; amended June 30, 2006; amended Oct. 2, 2009; amended Oct. 22, 2010; amended Nov. 14, 2011; amended Sept. 20, 2013; amended, T-_____, _____; amended P-_____.)